



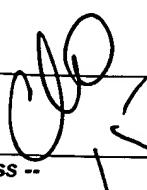
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,564	04/27/2001	Ming Yu Chang	01-03-1627	1790
23388	7590	03/22/2004	EXAMINER	
TROJAN LAW OFFICES 9250 WILSHIRE BLVD SUITE 325 BEVERLY HILLS, CA 90212			YEUNG, JAMES C	
ART UNIT		PAPER NUMBER		
3749				

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/844,564	CHANG, MING YU 
Period for Reply	Examiner	Art Unit
	James c Yeung	3749
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>17 June 2003</u> .		
2a) <input type="checkbox"/> This action is FINAL . 2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
Disposition of Claims		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-15 and 17</u> is/are pending in the application.		
4a) Of the above claim(s) _____ is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>1-15 and 17</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.		
Application Papers		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.		
If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
Priority under 35 U.S.C. §§ 119 and 120		
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:		
1. <input type="checkbox"/> Certified copies of the priority documents have been received.		
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.		
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
Attachment(s)		
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____.		

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DETAILED ACTION

Reissue Applications

1. **37 CFR 1.175(a)(1)**

(a) The reissue oath or declaration in addition to complying with the requirement of 1.63, must (emphasis added) also state that:

(1) The applicant believes the original patent to be wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, stating at least one error being relied upon as the basis for the reissue (emphasis added).

2. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) as noted above and MPEP 1414. The reissue declaration must identify a single word, phrase or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid.

On pages 5-7 of the applicant's remark received June 17, 2003, Paper No.14, applicant's argument that "at least one error" has been recited in the declaration are not persuasive. The reference to MPEP 1402 is misplaced in that the statement that the attorney failure to appreciate the full scope of the invention was held to be an error correctable through reissue. In re

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Wilder 736 F.2d 1516, 22 USPQ 369 (Fed Cir 1984) is directed to the declaration indicating how the error occur and not that it described the error. This is no longer a requirement of a reissue declaration. While it is agreed that it is not mandatory that the declaration point out a single word, phrase, or expression in the specification or in an original claim, applicant has not provided any other proper error for which the reissue can be based. Furthermore, it does not appear that applicant is correcting any other errors for which the reissue can be based.

3. Claims 1-15, and 17 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Yeung whose telephone number is (703) 308-1047. The facsimile telephone number for this Art Unit is (703) 308-7764.

JY


James C. Yeung
Primary Examiner